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SAN MATEO COUNTY**

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Clerk of the Superior Court  
By S. YAMING  
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10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO**

11 **(An Unlimited Limited Civil Action and Putative Class Action)**

12 **C1V537818**

13 KAREN FERGUSON,

Case No. \_\_\_\_\_

14 Plaintiff,

COMPLAINT

15 vs.

16 CACH, LLC; MANDARICH LAW GROUP,  
17 LLP; and DOES 1-10,

18 Defendants.

19 Comes now Plaintiff Karen Ferguson who hereby alleges, claims and prays as follows.

20 **INTRODUCTION**

21 1. Plaintiff Karen Ferguson (FERGUSON) is an individual over the age of 18 and a  
22 resident of the City and County of San Mateo, California. FERGUSON brings suit against  
23 Defendants Cach, LLC (CACH), and Mandarich Law Group, LLP (MANDARICH), for  
24 violations of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act), Civ. Code § 1788  
25 *et seq.*, Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.*, and California's  
26 Unfair Competition Law (UCL), Business & Professions Code § 17200 *et seq.*

27 2. The action arises from an underlying limited civil debt collection case that  
28 MANDARICH filed and prosecuted on behalf of CACH against FERGUSON in this Court, *Cach, LLC, v. Ferguson*, CLJ 525120 ("the underlying collection case"). MANDARICH AND CACH therein alleged FERGUSON's liability for \$7,520.27, plus interest, costs and attorney's fees, due for a debt allegedly owed on a credit card account with Wells Fargo Bank which had allegedly been sold and assigned to CACH. The underlying collection case was filed November 6, 2013 and voluntarily dismissed on the day of trial on or about September 22, 2015.



1 sued herein as Does 1-10, and therefore sues those defendants by such fictitious names.  
2 FERGUSON will amend this cross-complaint to allege the true names and capacities of Does 1-  
3 10 when ascertained. FERGUSON is informed and believes and thereon alleges that Does 1  
4 through 10 are responsible in some manner for the events and occurrences alleged herein, and that  
5 FERGUSON's injuries and damages were proximately caused by Does 1-10.

6 **FACTS**

7 8. On a precise date unknown, sometime prior to 2008, Plaintiff FERGUSON opened a  
8 credit card account through Wells Fargo Bank. FERGUSON used the account for a period of  
9 time and made timely payments on the account. In approximately 2008, FERGUSON informed  
10 Wells Fargo Bank that the account had been compromised and unauthorized charges appeared on  
11 the account. FERGUSON asked that the account be closed. Wells Fargo informed FERGUSON  
12 that the account had been closed. Unbeknownst to FERGUSON at the time, that information was  
13 incorrect and the account remained open. However, FERGUSON made no further charges on the  
14 account and made no further payments on the account, nor did any other person.

15 9. On November 6, 2013, MANDARICH filed the underlying collection case on behalf of  
16 CACH and against FERGUSON alleging FERGUSON's liability for \$7,520.27, plus interest,  
17 costs and attorney's fees, due for a debt owed allegedly on the credit card account with Wells  
18 Fargo Bank which had allegedly been sold and assigned to CACH. The complaint alleged that  
19 within 4 years prior to the filing of the collection case, the Wells Fargo Bank credit card account  
20 was open and charges had been made thereon by FERGUSON and payment had come due from  
21 her on the account and she had made payments, but had failed to pay the outstanding balance due.  
22 In other words, MANDARICH and CACH represented that the underlying collection case had  
23 been filed within the maximum 4-year limitations period for debt collection claims based on  
24 breach of a written contract, to wit: the credit card agreement.

25 10. Representing herself, FERGUSON filed an answer denying liability and claiming that  
26 she had closed the Wells Fargo Account and was not liable for the debt. However, FERGUSON  
27 did not have copies of the Wells Fargo Account statements needed to prove those defenses.

28 11. Later in the proceedings in the underlying collection case, FERGUSON retained

1 counsel, the Law Office of Murray Zatman, which associated with attorney Mark T. Clausen to  
2 defend the collection case on behalf of FERGUSON. A notice of substitution of counsel was duly  
3 filed and served by mail on MANDARICH as counsel for CACH.

4 12. A court trial was set for September 22, 2015. Prior to trial, FERGUSON made  
5 demand on CACH for production of documents in accordance with Code of Civil Procedure  
6 section 96, which requires the party on whom such a demand has been made to produce, at least  
7 10 days prior to trial, all documents which the party intends to offer in evidence at trial. On  
8 behalf of CACH, MANDARICH served a response to the demand which was received by  
9 FERGUSON's counsel a short time prior to trial—sometime around September 15-22, 2015.  
10 The documents produced had not been previously provided to FERGUSON or her counsel.

11 13. On review of the documents, FERGUSON and her counsel discovered for the first  
12 time that Wells Fargo Bank had not closed the credit card account as had been requested by  
13 FERGUSON in approximately 2008. Instead, Wells Fargo Bank had closed the checking account  
14 to which the credit card account was linked for automatic payment withdrawals on a monthly  
15 basis as the credit card account came due. Each month, Wells Fargo Bank's automated computer  
16 system had drawn on the checking account to make payment on the credit card account. Because  
17 the checking account was closed, the automated system later reported that the account was  
18 overdrawn. An overdraft charge was automatically billed to the checking account and the  
19 payment transaction was automatically reversed with late fees and penalties and cancelled  
20 payment fees automatically charged to the credit card account—all by computer without human  
21 involvement. This occurred over and over again for a period of many years, without the  
22 knowledge of FERGUSON who was completely unaware of these facts until just prior to trial in  
23 the underlying collection case on September 22, 2015.

24 14. On behalf of CACH, MANDARICH noticed FERGUSON to appear for trial in the  
25 underlying collection case. FERGUSON appeared for trial along with her counsel.  
26 MANDARICH did not appear as counsel for CACH. Instead, as is the rule in limited civil debt  
27 collection cases brought by MANDARICH, a local "special appearance" attorney handled the  
28 matter, Mr. Brandon Tang. Mr. Tang frequently makes "special appearances" on behalf of

1 MANDARICH and CACH and countless other debt collectors and collection law firms in cases  
2 pending in the Greater Bay Area.

3 15. The judge in the underlying criminal case ordered the parties and their attorneys to  
4 discuss settlement prior to the call of the case for trial. The parties and their counsel discussed  
5 the matter in the hallway outside of the courtroom. An agent for CACH was present and he  
6 represented that he would testify as a witness if the case proceeded. That individual and attorney  
7 Tang falsely represented that the Wells Fargo Bank account remained open for a period of time  
8 that brought the collection case within the 4 year limitations period.

9 16. Those false representations were based on the false claim that FERGUSON had  
10 incurred charges on the Wells Fargo Account well into 2013 when the collection case was filed.  
11 Those representations were false, as shown by the aforementioned documents that MANDARICH  
12 and CACH had produced a short time prior to trial. The documents plainly showed that  
13 FERGUSON had not used the Wells Fargo Account since approximately 2008. The charges to the  
14 account after that date were the result of Wells Fargo Bank's automatic computer system's serial  
15 draws on FERGUSON's closed and empty checking account to make monthly payment to the  
16 credit card account, which resulted in automatic charges for late fees, penalties and reversed  
17 payment transactions because the checking account had no funds.

18 17. In other words, FERGUSON plainly had not used the credit card account or made  
19 payment on the credit card account within the 4 years preceding the filing of the collection case  
20 and therefore the collection case was plainly time-barred. FERGUSON and her attorneys did not  
21 know this information until shortly before trial in the collection case. MANDARICH and CACH,  
22 however, had known the information since the day of their filing of the collection case, if not  
23 earlier, because they had in their possession and control all of the Wells Fargo Bank records for  
24 the credit card and checking accounts.

25 18. CACH's agent and attorney Tang continued to make settlement demands, despite  
26 being shown the Wells Fargo Bank records by FERGUSON's counsel and despite counsel's  
27 detailed explanation of what the records showed as described herein-above. Ultimately, just as  
28 the case was being called for trial, CACH's agent and attorney Tang capitulated and agreed to

1 dismiss the case, which they did.

2 19. FERGUSON and her counsel presume that prior to discussing the matter with  
3 CACH's agent and attorney Tang on the morning of trial call, the agent and attorney Tang were  
4 not personally aware that the 4-year statute of limitations had run on the claims against  
5 FERGUSON and that MANDARICH and CACH were falsely representing that FERGUSON had  
6 charged on the credit card account and had made payments thereon during the 4 years preceding  
7 the filing of the action. Attorney Tang has conducted himself reputably in all interactions with  
8 FERGUSON's counsel in the underlying case and countless other debt collection cases, and no  
9 claim is herein made that attorney Tang knowingly and intentionally engaged in wrongdoing in  
10 the underlying collection case.

11 20. However, MANDARICH and CACH knew or reasonable should have known of true  
12 facts concerning the statute of limitations bar in the debt collection case as described herein-  
13 above and should have informed their duly authorized agents (including attorney Tang) of those  
14 facts so that the agents would not repeat the false representations in an effort to pressure  
15 FERGUSON to settle the collection case.

16 21. Following the dismissal of the underlying collection case, and prior to the filing of  
17 this action, FERGUSON's counsel communicated with MANDARICH via email and expressed a  
18 desire to resolve the matter through settlement, and FERGUSON made a firm settlement offer.  
19 MANDARICH did not respond to the communications. This action follows.

## 20 **FIRST CAUSE OF ACTION**

### 21 **Violation of the Rosenthal Act**

22 22. The conduct of defendants MANDARICH and CACH as herein-above described  
23 constitutes a violation of the Rosenthal Act through false representation of material fact made by  
24 MANDARICH and CACH in an effort to collect a debt.

25 23. Specifically, MANDARICH and CACH falsely represented that (1) the underlying  
26 collection case was brought within the 4-year limitations period for breach of written contract and  
27 related claims to recover the subject debt; (2) FERGUSON had charged on the subject credit card  
28 account within 4 years prior to the filing of the collection case; (3) FERGUSON had made



1 payment on the subject credit card account within 4 years prior to the filing of the collection case;  
2 (4) the aforementioned facts were shown by the Wells Fargo Bank records for the credit card  
3 account and FERGUSON's checking account; (5) If the collection case went to trial, CACH  
4 would prevail based on the Wells Fargo Bank records; and (6) FERGUSON should agree to pay  
5 money in settlement to avoid greater liability following trial on the merits.

6 24. In making these false representations in an effort to collect a debt, defendants  
7 MANDARICH and CACH committed one or more violations of Civil Code section 1788.17 of  
8 the Rosenthal Act (which incorporates by reference various violations of the FDCPA) by  
9 violating 15 U.S.C. sections:

10 (1) 1692e(2)(A) – the false representation of the character and legal status the debt.

11 (2) 1692e(5)– the threat to take action that cannot legally be taken to collect a debt.

12 (3) 1692e(10)– the use of false representation or deceptive means to attempt to collect a  
13 debt.

14 (4) 1692f– use of unfair or unconscionable means to attempt to collect a debt.

15 25. Plaintiff FERGUSON was not aware of the true facts, and should not reasonably  
16 have been so aware, until September 2015 when she had her counsel reviewed the Wells Fargo  
17 Bank records which MANDARICH and CACH had produced in response to FERGUSON's  
18 demand for records under Code of Civil Procedure section 96 prior to trial on or about September  
19 22, 2015. This action is filed within 1 year of the date that FERGUSON knew, or should have  
20 known, of the falsity of the representations made by MANDARICH and CACH and therefore the  
21 Rosenthal Act claim is timely.

22 26. As a result of defendant MANDARICH and CACH's unlawful actions, Plaintiff  
23 FERGUSON suffered actual damages in the approximate amount of \$5,000 for time spent in  
24 defense of the time-barred collection case and for attorney's fees and costs incurred therein and  
25 for emotional distress suffered as a result of the filing and prosecution of the action. Such  
26 damages may be recovered pursuant to Civil Code section 1788.30(a).

27 27. In addition, or in the alternative, under Civil Code section 1788.30(b), FERGUSON  
28 is entitled to a statutory penalty in such amount as the court may allow, for each individual

1 violation of the Rosenthal Act by Defendants, which penalty shall not be less than one hundred  
2 dollars (\$100) nor greater than one thousand dollars (\$1,000).

3 **SECOND CAUSE OF ACTION**

4 **Violation of the FDCPA**

5 28. The conduct of defendants MANDARICH and CACH as herein-above described  
6 constitutes a violation of the FDCPA through false representation of material fact made by  
7 MANDARICH and CACH in an effort to collect a debt.

8 29. Specifically, MANDARICH and CACH falsely represented that (1) the underlying  
9 collection case was brought within the 4-year limitations period for breach of written contract and  
10 related claims to recover the subject debt; (2) FERGUSON had charged on the subject credit card  
11 account within 4 years prior to the filing of the collection case; (3) FERGUSON had made  
12 payment on the subject credit card account within 4 years prior to the filing of the collection case;  
13 (4) the aforementioned facts were shown by the Wells Fargo Bank records for the credit card  
14 account and FERGUSON's checking account; (5) If the collection case went to trial, CACH  
15 would prevail based on the Wells Fargo Bank records; and (6) FERGUSON should agree to pay  
16 money in settlement to avoid greater liability following trial on the merits.

17 30. The conduct of defendants MANDARICH and CACH as described herein-above  
18 constitutes one or more violations of the FDCPA, including 15 U.S.C. sections:

19 1692e(2)(A) – the false representation of the character and legal status the debt.

20 1692e(5)– the threat to take action that cannot legally be taken.

21 1692e(10)– the use of false representation or deceptive means to attempt to collect a debt.

22 1692f– us of unfair or unconscionable means to attempt to collect a debt.

23 31. Plaintiff FERGUSON was not aware of the true facts, and should not reasonably have  
24 been so aware, until September 2015 when she had her counsel reviewed the Wells Fargo Bank  
25 records which MANDARICH and CACH had produced in response to FERGUSON's demand for  
26 records under Code of Civil Procedure section 96 prior to trial on or about September 22, 2015.  
27 This action is filed within 1 year of the date that FERGUSON knew, or should have known, of the  
28 falsity of the representations made by MANDARICH and CACH and therefore the FDCPA claim



1 is timely.

2       32. As a result of defendant MANDARICH and CACH's unlawful actions, Plaintiff  
3 FERGUSON suffered actual damages in the approximate amount of \$5,000 for time spent in  
4 defense of the time-barred collection case and for attorney's fees and costs incurred therein and  
5 for emotional distress suffered as a result of the filing and prosecution of the action. Such  
6 damages may be recovered pursuant to 15 U.S. 1682k(a)(1).

7       33. In addition, or in the alternative, under 15 U.S. 1682k(a)(2)(A), Plaintiff FERGUSON  
8 is entitled to statutory penalties/damages as the court may allow, which shall not be greater than  
9 one thousand dollars (\$1,000), for each individual violation of the FDCPA by Defendants.

### 10 11                                   **THIRD CAUSE OF ACTION**

#### 12                                   **UCL claim under Business and Prof. Code section 17200, *et seq.***

13       34. The actions of Defendants as described herein-above were undertaken as part of their  
14 standard business practices. Defendants routinely attempt to collect debts which they purchased  
15 from Wells Fargo Bank and other financial institutions and business entities and which they  
16 falsely represent are subject to collection in California through litigation filed within the  
17 maximum 4-year limitations period for debt collection claims.

18       35. Defendants know, or reasonably should know, that the debt collection claims are  
19 time-barred. Nonetheless, Defendants file limited civil debt collection case in California in an  
20 attempt to collect the debt through litigation or settlement. Usually, Defendants succeed because  
21 the alleged debtor is commonly self-represented and is ignorant of the fact that the collection case  
22 is time-barred, or because the alleged debtor has retained paid counsel and it is cheaper to settle  
23 than to defend the litigation on the merits based on statute of limitations grounds or otherwise.

24       36. The actions of Defendants are unlawful for the reasons stated in the First and Second  
25 Causes of Action for violations of the Rosenthal Act and FDCPA. Consequently, said Defendants  
26 are liable under the UCL for unlawful business practices pursuant to Business & Professions  
27 Code section 17200, *et seq.*

28       37. As the direct and foreseeable result of Defendants' unlawful business practices as

1 manifested in the underlying collection case, Plaintiff FERGUSON suffered injury in fact and has  
2 lost money or property so as to have standing to prosecute a UCL claim on a class action basis.

3 Said injury and loss of money or property includes but is not limited to the following:

4 (A) Lost time and money in defense of the collection case.

5 (B) Emotional distress as the result of the filing and prosecution of the collection case.

6 (C) Incurrence of attorney's fees and costs in defense of the collection case.

7 (D) Negative credit report as the result of the filing and prosecution of the collection case  
8 and the failure of Defendants to timely report the dismissal of the collection case making the debt  
9 uncollectible.

10 38. The actions of Defendants as described herein occurred within 4 years of the filing of  
11 this action and are therefore subject to redress under the UCL.

12 39. Pursuant Business & Professions Code sections 17200, *et seq.*, and upon certification  
13 of the UCL claim as a class action, Plaintiff FERGUSON and all others similarly situated are  
14 entitled to an injunction prohibiting Defendants from continuing to engage in the unlawful  
15 business practices described herein.

#### 16 CLASS ACTION ALLEGATIONS

17 40. Plaintiff is informed and believe and thereon alleges that there is a class of individuals  
18 similarly situated to them numbering over 500 who have been subjected to the same or  
19 substantially similar conduct by Defendants and who have suffered the same or substantially  
20 similar harm as Plaintiff during the 4 year period preceding the filing of this action.

21 41. Common factual and legal questions predominate and the nature and scope of  
22 Defendants' conduct, and the nature and degree of the harm and damage done to Plaintiff and the  
23 putative class by Defendants' conduct, is so similar that certification of a class or sub-classes is  
24 appropriate with respect to First through Third Causes of Action.

25 42. While the precise contours of the putative class or sub-classes will be determined  
26 when a motion for class certification is filed, for purposes of general pleading the putative class or  
27 sub-classes shall include (subject to the applicable limitations periods) all individuals who were  
28 named as defendants in a limited civil debt collection case brought by or at behest of Defendants

1 at bar under one or more of the following circumstances:

2 (A) The action was brought outside the maximum 4 year statute of limitations period for  
3 debt collection claims.

4 (B) The Defendants falsely represented that the debt collection case was timely-filed  
5 within 4 years of the alleged debtor's use of the subject account or payment on said account.

6 (C) The Defendants falsely represented that they had documents which proved that the  
7 debt collection case was timely-filed within 4 years of the alleged debtor's use of the subject  
8 account or payment on said account.

9 (D) The Defendants falsely represented that if the debt collection case went to trial the  
10 Defendants would prevail based on the documents which purportedly provided the debtor's use of  
11 the subject account or payment on said account within 4 years of the filing of the collection case.

12 (E) The Defendants falsely represented that it would be in the alleged debtor's best  
13 interest to pay money in settlement of the debt collection case rather than lose at trial based on the  
14 Defendants tender of the documents which purportedly provided the debtor's use of the subject  
15 account or payment on said account within 4 years of the filing of the collection case.

16 43. Plaintiff is competent to represent the class or sub-classes because Plaintiff is a  
17 competent individual over the age of 18 who has been subjected to the same general conduct by  
18 Defendants and has suffered the same general harm as the putative class members.

19 44. Plaintiff's counsel, Mark T. Clausen, is qualified and competent to represent the class.  
20 Attorney Clausen has over 20 years of legal experience as a law clerk and attorney and has filed  
21 and prosecuted dozens of class actions and taxpayer cases.<sup>1</sup> Attorney Clausen has 18 published  
22 California opinions to his credit to date on various subjects of law, including 2 cases published  
23 last year, and has been granted review in 7 cases, including 2 cases which are now pending in the  
24 high court. (See *Dane v. City of Santa Rosa*, First Dist., Div. 2, A138355 [non pub. opinion],  
25 review granted and case now pending in the Supreme Court; *Thompson v. Petaluma Police*

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26  
27 <sup>1</sup>Like a class action, a taxpayer action under Code of Civil Procedure section 526a may be  
28 prosecuted by the plaintiff for benefit of the plaintiff and/or other members of the public. (See *Van*  
*Atta v. Scott* (1980) 27 Cal. 3d 424, 447-450.)

1 *Department* (2014) 231 Cal.App.4th 101; *Wheatherford v. City of San Rafael* formerly at (2014)  
 2 226 Cal.App.4th 460, review granted and case now pending in the Supreme Court, S219567;  
 3 *Musaelian v. Adams* (2011) 197 Cal.App.4th 1251; *Alviso v. Sonoma County Sheriff's Dept.* (1<sup>st</sup>  
 4 Dist., Div. 2, 2010) 186 Cal.App.4th 198; *Musaelian v. Adams* (2009) 45 Cal.4th 512; *City of Los*  
 5 *Angeles v. 2000 Jeep Cherokee* (2<sup>nd</sup> Dist., Div. 1, 2008) 159 Cal.App.4th 1272 [decision on  
 6 retransfer to the Court of Appeal following grant of review in the Supreme Court]; *O'Connell v.*  
 7 *City of Stockton* (2007) 41 Cal.4th 1061; *Hernandez v. City of Sacramento*, formerly (3<sup>rd</sup> Dist.  
 8 2007) 54 Cal.Rptr.3d 98, depublished on grant of review and affirmed *sub nom* based on  
 9 *O'Connell, supra*, 41 Cal.4th 1061, appeal dismissed, S151356; *Samples v. Brown* (1<sup>st</sup> Dist., Div.  
 10 2, 2007) 146 Cal.App.4th 787; *People v. \$17,522.08 U.S. Currency* (6<sup>th</sup> Cir. 2006) 48 Cal.App.3d  
 11 519; *O'Connell v. City of Stockton*, formerly (3<sup>rd</sup> Dist. 2005) 128 Cal.App.4th 831, depublished  
 12 on grant of review and affirmed by *O'Connell, supra*, 41 Cal.4th 1061; *People v. Ladesma* (2003)  
 13 106 Cal.App.4th 857; *Smith v. Santa Rosa Police Department* (1<sup>st</sup> Dist., Div. 3, 2002) 97 Cal.  
 14 App. 4th 546; *Bjork v. Mason* (2000) 77 Cal.App.4th 544.

15 45. In accordance with Code of Civil Procedure sections 425.17, subdivision (b) and  
 16 1021.5, Plaintiff brings this action solely in the public interest. Plaintiff does not seek any relief  
 17 greater than or different from the relief sought for the putative class of which she is a member.  
 18 To the extent anything in the complaint may suggest otherwise, Plaintiff hereby waives the right  
 19 to seek any relief greater than or different from the relief sought by the putative class, including  
 20 the nature and amount of damages and statutory penalties to be awarded to Plaintiff and the  
 21 putative class.

22 46. The action, if successful, would enforce an important right affecting the public  
 23 interest and would confer a significant benefit, both pecuniary and nonpecuniary, on the general  
 24 public and a large class of persons, in that the action would result in enforcement of the Rosenthal  
 25 Act, FDCPA and UCL for benefit of the putative class, other debtors (or alleged debtors) in  
 26 collection cases brought by Defendants, and the general public which has a significant interest in  
 27 enforcement of the Rosenthal Act, FDCPA and UCL.

28 47. Private enforcement is necessary and places a disproportionate financial burden on

1 Plaintiff in relation to her stake in the matter. To date, no public agency has pursued relief  
2 against Defendants based on the conduct described herein. Private enforcement is therefore  
3 necessary. Plaintiff's personal stake in the case is minimal as she has requested only \$5,000 in  
4 actual damages plus \$2,000 in statutory penalties, for a maximum recovery of \$7,000 and she has  
5 agreed to take less in the event that the putative class members recover less because Plaintiff has  
6 limited her personal relief to that recovered by the putative class. The injunctive relief claim  
7 under the UCL is not likely to afford Plaintiff any personal benefit at is unlikely that she will  
8 again be the subject of a time-barred collection case by Defendants at some point in the future.

9 48. In contrast to Plaintiff's nominal stake in the outcome of the case, Plaintiff's expenses  
10 in connection with the prosecution of the action are sizeable as her attorney's fees and costs will  
11 be in excess of \$50,000-\$100,000 by the time judgment is entered in the case, and the amount of  
12 fees and costs will increase significantly if an appeal is taken. In addition, there is the possibility  
13 that Plaintiff may be found liable for defendants' attorney's fees if they prevail in the case.  
14 Defendants' fees would likely exceed \$50,000-\$100,000 in the trial court through entry of  
15 judgment, much more if an appeal is taken.

16 49. At the appropriate time, Plaintiff will move for class certification.

#### 17 **INAPPLICABILITY OF THE LITIGATION PRIVILEGE**

18 50. The claims asserted by Plaintiff are not subject to the litigation privilege, Civil Code  
19 section 47, because such would defeat the rights and remedies provided by the Rosenthal Act and  
20 FDCPA and UCL. (See *Komarova v. National Credit Acceptance, Inc.* (2009) 175 Cal.App.4th  
21 324.)

#### 22 **PRAYER**

23 WHEREFORE, Plaintiff FERGUSON prays for relief as follows:

24 1. For certification of the case as a class action on the First through Third Causes of  
25 Action for damages, statutory penalties and injunctive relief, with FERGUSON as lead class  
26 plaintiff and her attorney, Mark T. Clausen, as sole class counsel or lead class counsel.

27 2. For actual damages and statutory penalties on behalf of FERGUSON and the putative  
28 class for the Roenthal Act and FDCAP claims asserted in the First and Second Cause of Action.

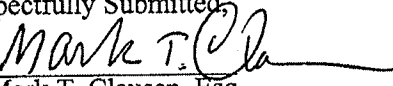
1           3. For injunctive relief against Defendants' unlawful and unfair business practices  
2 pursuant to the UCL, Business and Professions Code sections 17200, et seq.

3           4. For costs of suit, including attorney fees and costs pursuant to Code of Civil Procedure  
4 sections 1021.5 and 1033.5 and Civil Code section 1788.30(c) and the FDCPA and as otherwise  
5 available by law.

6           5. For such other relief as the law allows and the Court deems just.

7                           Respectfully Submitted,

8 Date: March 14, 2016

By:   
Mark T. Clausen, Esq.  
Murray Zatman, Esq.  
Attorneys for Plaintiff Karen Ferguson